

**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
CONSUMER SERVICES DIVISION**

IN THE MATTER OF DETERMINING
Whether there has been a violation of the
Check Cashers and Sellers Act of Washington by:

NO. C-06-052-06-SC01

APPLE BIN, LLC, d/b/a UNCLE BUCK\$ OF
SELAH, and HEATHER SCHILPEROORT-
YOUNG, Owner, Managing Member, and
Officer, and FARON YOUNG, Owner, Managing
Member, and Officer, and GARY YOUNG, Owner,
Member, and Officer, and KAREN YOUNG,
Owner, Member, and Officer,

STATEMENT OF CHARGES and
NOTICE OF INTENTION TO ENTER
AN ORDER TO CEASE AND DESIST CHECK
CASHING AND MAKING OF SMALL LOANS,
DENY LICENSE APPLICATION, IMPOSE FINE,
ORDER RESTITUTION, BAN FROM INDUSTRY,
AND COLLECT INVESTIGATION FEE

Respondents.

INTRODUCTION

Pursuant to RCW 31.45.110 and RCW 31.45.200, the Director of the Department of Financial Institutions of the State of Washington (Director) is responsible for the administration of chapter 31.45 RCW, the Check Cashers and Sellers Act (Act). After having conducted an investigation pursuant to RCW 31.45.040 and RCW 31.45.100, and based upon the facts available as of March 22, 2006, the Director institutes this proceeding and finds as follows:

I. FACTUAL ALLEGATIONS

1.1 Respondents.

A. **Apple Bin, LLC, d/b/a Uncle Buck\$ of Selah (Uncle Buck\$)** submitted an application to the Department of Financial Institutions of the State of Washington (Department) for a license to conduct business as a check casher with a small loan endorsement at the following location:

619 S. First Street, Suite B
Selah, WA 98492

The application was received by the Department on March 9, 2006.

1 Apple Bin, LLC, was incorporated in the State of Washington on May 27, 1999, and has maintained a
2 corporate license in the State of Washington to date. Apple Bin, LLC, d/b/a Uncle Buck\$ of Selah received a
3 Master Business License from the Washington State Department of Licensing on October 24, 2005.

4 B. **Heather Schilperoort-Young** is listed as Owner, Managing Member, and Officer of
5 Respondent Uncle Buck\$ in the application.

6 C. **Faron Young** is listed as Owner, Managing Member, and Officer of Respondent Uncle Buck\$
7 in the application.

8 D. **Gary Young** is listed as Owner, Member, and Officer of Respondent Uncle Buck\$ in the
9 application.

10 E. **Karen Young** is listed as Owner, Member, and Officer of Respondent Uncle Buck\$ in the
11 application.

12 **1.2 Unlicensed Locations.** For at least the period beginning December 2005 through March 6, 2006,
13 Respondents have conducted business from the following location:

14 619 S. First Street, Suite B
15 Selah, WA 98942

16 **1.3 Check Cashier License with Small Loan Endorsement.** To date, the Department has not issued a
17 license to any of the Respondents to conduct the business of a check cashier with a small loan endorsement. To
18 date, the Department has not issued a license to any person to conduct the business of a check cashier with a
19 small loan endorsement from the address listed in paragraph 1.2.

20 **1.4 Declaration and Agreement to Cease and Desist.** On March 3, 2006, the Department sent a letter that
21 included a form entitled "Declaration and Agreement to Cease and Desist," which was served on Respondents the
22 following day. Respondent Schilperoort-Young signed and returned the Declaration and Agreement to Cease and
23 Desist on March 7, 2006.

24 **1.5 Unauthorized Check Cashing.** Respondents have engaged in the business of check cashing from the
25 address listed in paragraph 1.2 from at least December 2005 through March 2006.

1 On March 3, 2006, a Subpoena to Produce Records 19406-06-SB01 (Subpoena) was issued by the
2 Department, and was served on Respondents the following day. Pursuant to the Subpoena, Respondent
3 Schilperoort-Young provided the Department with check cashing and small loan transaction histories for over one
4 hundred and seventy-five (175) consumers, each with small loan or check cashing activity during at least the period
5 from December 2005 through March 6, 2006. According to these check cashing activity schedules, Respondents
6 collected over three thousand eight hundred dollars (\$3,800) in check cashing fees during this period.

7 **1.6 Unauthorized Making of Small Loans.** Respondents have engaged in the business of making small
8 loans from the address listed in paragraph 1.2 from at least December 2005 through March 2006.

9 A. On February 9, 2006, Department personnel visited Respondents at the address listed in paragraph
10 1.2. During that visit, Respondents' employee stated that Respondents:

- 11 • Give small loans
- 12 • Cash checks
- 13 • Had engaged in the business of cashing checks and making small loans since at least
14 December 2005

15 Department personnel also obtained a small loan application and business card from Respondents' store.

16 B. Pursuant to the Subpoena discussed in paragraph 1.5, the Department obtained small loan
17 transaction histories. According to the small loan transaction histories, at least thirty-four (34) consumers had
18 outstanding small loans, with principal balances totaling at least nine thousand dollars (\$9,000), due to Respondents
19 as of March 6, 2006.

20 C. Pursuant to the Subpoena discussed in paragraph 1.6B, the Department obtained loan activity
21 schedules from Respondents for the period from December 2005 through March 6, 2006. According to these
22 loan activity schedules, Respondents made over twenty-four thousand dollars (\$24,000) in small loans and
23 collected over two thousand five hundred dollars (\$2,500) in interest on small loans during this period.

24 **1.7 Failure to Disclose Terms of Small Loans to Borrowers.** Respondents have failed to provide
25 borrowers with statutorily required written agreements or written disclosures during the course of making small
loans. During the February 9, 2006, visit by Department personnel discussed in paragraph 1.6A, Department

1 personnel obtained a small loan application, which Respondents' employee identified as the only written document
2 required to obtain a small loan. The application has blank spaces for the name of the borrower, the name of
3 borrower's spouse, the borrower's social security number, the borrower's spouse's social security number, the
4 borrower's address, the borrower's phone number, the borrower's employment information, the borrower's
5 spouse's employment information, the borrower's references, the borrower's signature, the borrower's spouse's
signature, and the following text:

6 "I agree that Uncle Buck\$ and its representatives may contact any person listed above
7 or relatives or other persons having dealings with me in order to obtain information and
8 to discuss any debts which I owe Uncle Buck\$, to the extent not prohibited by law. I
9 waive any privacy claims against Uncle Buck\$. I agree to pay Uncle Buck\$ the sum of
10 10% of the face amount of any check or \$25.00, whichever is greater, for any check
11 returned or dishonored, together with collection costs and reasonable attorney fees. I
agree that any action upon dishonored or returned check shall lie in the Yakima
County, Washington. My signature or endorsement or both on items presented to
Uncle Buck\$ guarantees payment of the item(s) cashed at Uncle Buck\$ and I hereby
authorize payment if due from this or subsequent items presented at Uncle Buck\$."

12 The application does not contain any of the statutorily required written disclosures.

13 **1.8 Charging Fees on Delinquent Small Loans in Excess of Statutory Maximum.** Respondents' loan
14 application includes an agreement to "pay Uncle Buck\$ the sum of 10% of the face amount of any check or
15 \$25.00, whichever is greater, for any check returned or dishonored, together with collection costs and reasonable
16 attorney fees." The agreement violates statutory provisions related to the collection of fees on delinquent small
17 loans. The statute authorizes the following fees: (1) a one-time fee up to twenty-five dollars (\$25.00) where a
18 borrower's check has been returned unpaid by the financial institution upon which it is drawn or (2) where civil
19 action is taken under Title 62A RCW, the cost of collection as allowed under RCW 62A.3-515 (the lesser of
20 forty dollars (\$40.00) or the face amount of the check), but not attorney's fees or any other interest or damages
as allowed under RCW 62A.3-515.

21 **1.9 On-Going Investigation.** The Department's investigation into the alleged violations of the Act by
22 Respondents continues to date.

II. GROUNDS FOR ENTRY OF ORDER

2.1 Definition of Check Casher. Pursuant to RCW 31.45.010(5), a "Check Casher" is defined as an individual, partnership, unincorporated association, or corporation that, for compensation, engages, in whole or in part, in the business of cashing checks, drafts, money orders, or other commercial paper serving the same purpose.

2.2 Definition of Licensee. Pursuant to RCW 31.45.010(12), a "Licensee" is defined as a check casher or seller licensed by the director to engage in business in accordance with the Act. For the purpose of the enforcement powers of the Act, including the power to issue cease and desist orders under RCW 31.45.110, "licensee" also means a check casher or seller who fails to obtain the license required by the Act.

2.3 Definition of Small Loan. Pursuant to RCW 31.45.010(19), a "Small Loan" is defined as a loan up to the maximum amount and for a period of time up to the maximum term specified in RCW 31.45.073.

2.4 Requirement to Obtain a Check Casher License. Based on the Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW 31.45.030(1) for engaging in the business of a check casher without first obtaining a license from the Director.

2.5 Requirement to Obtain a Small Loan Endorsement. Based on the Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW 31.45.070 and RCW 31.45.073 for engaging in the business of making small loans without first obtaining a small loan endorsement from the Director.

2.6 Requirement to Provide Small Loan Disclosures. Based on the Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW 31.45.088(3), WAC 208-630-065, WAC 208-630-068 and WAC 208-630-080(3) for failing to provide disclosures to small loan borrowers including the terms of the small loan, the principal amount of the small loan, the total of payments of the small loan, the fee or interest rate charged by the licensee on the small loan, and the annual percentage rate resulting from this fee or interest rate.

2.7 Statutory Maximum Fees on Delinquent Small Loans. Based on the Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW 31.45.082 for charging fees on delinquent small

1 loans in excess of: (1) a one-time fee as determined in rule by the director where a borrower's check has been
2 returned unpaid by the financial institution upon which it is drawn and (2) where civil action is taken under
3 Title 62A RCW, the allowable cost of collection as allowed under RCW 62A.3-515, but not attorney's fees or
4 any other interest or damages as allowed under RCW 62A.3-515. Pursuant to WAC 208-630-085(1)(b), the
5 allowable one-time fee where a borrower's check has been returned unpaid by the financial institution upon
6 which it is drawn is currently up to twenty-five dollars (\$25). Pursuant to RCW 62A.3-515(a), the allowable
7 cost of collection is currently the lesser of forty dollars (\$40) or the face amount of the check.

8 **2.8 Investigation of License Application.** Pursuant to RCW 31.45.040(1), the Director shall conduct an
9 investigation of the applicant to determine the financial responsibility, experience, character, and general fitness
10 of the applicant. Pursuant to RCW 31.45.040(1)(b), prior to the issuance of a license the Director must
11 determine to his or her satisfaction that the applicant is financially responsible and appears to be able to conduct
12 the business of cashing or selling checks or making small loans in an honest, fair, and efficient manner with the
13 confidence and trust of the community. Based on the Factual Allegations set forth in Section I above, the
14 Director has determined to his satisfaction that Respondents are not financially responsible and able to conduct
15 the business of cashing or selling checks or making small loans in an honest, fair, and efficient manner with the
16 confidence and trust of the community.

17 **2.9 Authority to Issue Cease and Desist Order.** Pursuant to RCW 31.45.110(2)(b), the Director is
18 authorized to issue a cease and desist order requiring a licensee or applicant to cease and desist from practices in
19 violation of the Act or practices that constitute unsafe and unsound financial practices in the cashing of checks
20 and making of small loans.

21 **2.10 Authority to Deny License Application.** Pursuant to RCW 31.45.110(2)(a), the Director may deny a
22 license application if an applicant is violating, or has violated, the Act including rules and orders, or commits
23 any act or engages in conduct that demonstrates incompetence or untrustworthiness, or is a source of injury or
24 loss to the public.

1 **2.11 Authority to Impose Fine.** Pursuant to RCW 31.45.110(2)(c), the Director may impose a fine, not to
2 exceed one hundred dollars per day for each day's violation of the Act, on any licensee, or any director, officer,
3 sole proprietor, partner, controlling person, or employee of a licensee, that is violating or has violated the Act
4 including rules and orders, or commits any act or engages in conduct that demonstrates incompetence or
5 untrustworthiness, or is a source of injury or loss to the public.

6 **2.12 Authority to Order Restitution.** Pursuant to RCW 31.45.110(2)(d), the Director may order restitution
7 to borrowers damaged by the applicant's violation of this chapter.

8 **2.13 Authority to Remove and Ban from the Industry.** Pursuant to RCW 31.45.110(2)(e), the Director
9 may remove from office or ban from participation in the conduct of the affairs of any licensee or applicant any
10 director, officer, sole proprietor, partner, controlling person, or employee of a licensee or applicant that is
11 violating or has violated the Act including rules and orders, or commits any act or engages in conduct that
12 demonstrates incompetence or untrustworthiness, or is a source of injury or loss to the public.

13 **2.14 Authority to Collect Investigation Fee.** Pursuant to RCW 31.45.030(4), RCW 31.45.050(1), RCW
14 31.45.100, WAC 208-630-010, WAC 208-630-020, WAC 208-630-021 and WAC 208-630-02303, the Director
15 shall collect from an applicant the actual cost of a review and investigation of an application. The investigation
16 charge will be calculated at the rate of sixty-nine dollars and one cent (\$69.01) per hour that each staff person
17 devoted to the investigation, plus actual expenses. The deposit fee is applied to the actual cost of investigating the
18 application. If the deposit fee is not sufficient to cover the cost, the applicant will be assessed and responsible for
19 any additional cost. Pursuant to RCW 31.45.050(1), RCW 31.45.100, WAC 208-630-015, WAC 208-630-020,
20 WAC 208-630-023 and WAC 208-630-02303, the Director shall collect from the licensee the actual cost of an
21 examination or investigation of the business, books, accounts, records, files, or other information of a licensee or
22 person who the Director has reason to believe is engaging in the business governed by the Act. The investigation
23 charge will be calculated at the rate of sixty-nine dollars and one cent (\$69.01) per hour that each staff person
24 devoted to the investigation, plus actual expenses.

III. NOTICE OF INTENTION TO ENTER ORDER

Respondents' violations of the provisions of chapter 31.45 RCW and chapter 208-630 WAC, as set forth in the above Factual Allegations and Grounds for Entry of Order, constitute a basis for the entry of an Order under RCW 31.45.110 and RCW 31.45.200. Therefore, it is the Director's intention to ORDER that:

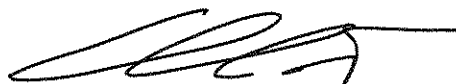
- 3.1 Respondents Apple Bin, LLC, d/b/a Uncle Buck\$ of Selah, Heather Schilperoort-Young, Faron Young, Gary Young, and Karen Young shall cease and desist any activities involving check cashing or making small loans
- 3.2 Respondent Apple Bin, LLC, d/b/a Uncle Buck\$ of Selah's application for a license to conduct the business of a check casher with a small loan endorsement be denied
- 3.3 Respondents Apple Bin, LLC, d/b/a Uncle Buck\$ of Selah, Heather Schilperoort-Young, Faron Young, Gary Young, and Karen Young jointly and severally pay a fine of \$14,500 for:
 - a. Engaging in the business of a check casher making small loans without a check casher license with a small loan endorsement in violation of RCW 31.45.030(1), RCW 31.45.070, and RCW 31.45.073, calculated at \$100 per day for 85 days
 - b. Failing to disclose the terms of small loans to borrowers in violation of RCW 31.45.088(3), calculated at \$100 per day for 30 days
 - c. Charging fees on delinquent small loans in excess of the statutory maximum in violation of RCW 31.45.082, calculated at \$100.00 per day for 30 days
- 3.4 Respondents Apple Bin, LLC, d/b/a Uncle Buck\$ of Selah, Heather Schilperoort-Young, Faron Young, Gary Young, and Karen Young jointly and severally pay restitution to all affected borrowers for:
 - a. Any interest or fees collected on small loans originated without a license from December 2005 through the date of this order, including at least \$2500 collected from borrowers between December 2005 and the date of this order, as discussed in paragraph 1.6C
 - b. Any fees collected on check cashing transactions without a license from December 2005 through the date of this order, including at least \$3,800 collected from consumers between December 13, 2005 and March 6, 2006, as discussed in paragraph 1.5
- 3.5 Respondent Heather Schilperoort-Young be banned from participation in the conduct of the affairs of any check casher or check casher with a small loan endorsement or check seller subject to licensure by the Director, in any manner, for a period of five (5) years
- 3.6 Respondent Faron Young be banned from participation in the conduct of the affairs of any check casher or check casher with a small loan endorsement or check seller subject to licensure by the Director, in any manner, for a period of five (5) years
- 3.7 Respondent Gary Young be banned from participation in the conduct of the affairs of any check casher or check casher with a small loan endorsement or check seller subject to licensure by the Director, in any manner, for a period of five (5) years
- 3.8 Respondent Karen Young be banned from participation in the conduct of the affairs of any check casher or check casher with a small loan endorsement or check seller subject to licensure by the Director, in any manner, for a period of five (5) years

1 3.9 Respondents Apple Bin, LLC, d/b/a Uncle Buck\$ of Selah, Heather Schilperoort-Young, Faron Young,
2 Gary Young, and Karen Young jointly and severally pay an investigation fee in the amount of \$1,552.73,
3 calculated at \$69.01 per hour for the twenty two and one half (22.5) staff hours devoted to the investigation.

4 IV. AUTHORITY AND PROCEDURE

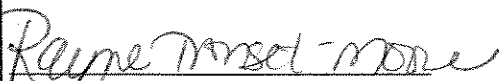
5 This Statement of Charges and Notice of Intention to Enter an Order to Cease and Desist Check Cashing and
6 Making Small Loans, Deny License Application, Impose Fine, Order Restitution, Ban from Industry, and
7 Collect Investigation Fee (Statement of Charges) is entered pursuant to the provisions of RCW 31.45.110 and
8 RCW 31.45.200, and is subject to the provisions of chapter 34.05 RCW (The Administrative Procedure Act).
9 Respondents may make a written request for a hearing as set forth in the NOTICE OF OPPORTUNITY TO
10 DEFEND AND OPPORTUNITY FOR HEARING accompanying this Statement of Charges.

11 Dated this 22nd day of March, 2006.



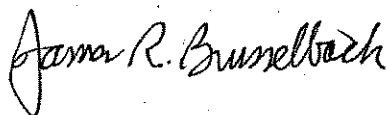
12 CHUCK CROSS
13 Director
14 Division of Consumer Services
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16 Presented by:

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20 Approved by:

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